Canadian Human Rights Tribunal

2005-2006

Departmental Performance Report

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Minister of Justice

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SECTION I – DEPARTMENTAL OVERVIEW

Chairperson's Message

The number of complaints referred by the Canadian Human Rights Commission for inquiry by the Tribunal decreased slightly in 2005 from the record highs we experienced in 2003 and 2004.

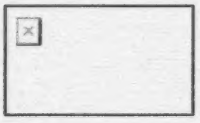
I remarked last year that one of the significant challenges facing the Tribunal was the number of parties appearing before us without legal representation. These complainants are often people of modest means who are unable to afford legal representation. To address this difficulty, the Tribunal implemented a new system of case management in 2005-2006.

At a very early stage in the inquiry process, a teleconference is conducted by a member of the Tribunal with all the parties and/or their counsel. During the teleconference, the member explains the Tribunal's pre-hearing and hearing processes and what is required from the parties. The member also sets time frames agreed upon by the parties for document and witness disclosure and for hearing dates. In addition to explaining the Tribunal's hearing process, case management ensures that complaints are heard and decided within a timely period.

The Tribunal will continue to make adjustments to its new case management process. We will also adjust our automated case management system, called the Tribunal Toolkit, which was installed in 2005-2006, to enhance information retrieval efficiency and data integrity. As well, we have completed a revision to the Tribunal's publication *What Happens Next? - Guide to the Tribunal Process*, which is designed to help unrepresented parties better understand the Tribunal process.

Finally, in 2005-2006, the Tribunal saw the appointments of a new full-time member and two new part-time members. These new members bring much more diversity to the Tribunal.

The Tribunal remains well-positioned to continue to offer Canadians a full, fair and timely hearing process.



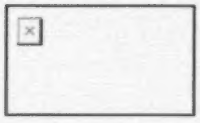
J. Grant Sinclair

Management Representation Statement

I submit, for tabling in Parliament, the 2005-2006 Departmental Performance Report for the Canadian Human Rights Tribunal.

This document has been prepared based on the reporting principles contained in the *Guide for the Preparation of 2005-2006 Part III of the Estimates: Reports on Plans and Priorities (RPP) and Departmental Performance Reports (DPR):*

- It adheres to the specific reporting requirements of the Treasury Board of Canada, Secretariat (TBS);
- It is based on the department's approved Program Activity Architecture as reflected in its Management, Resources and Results Structure;
- It presents consistent, comprehensive, balanced and accurate information;
- It provides a basis of accountability for the results achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved numbers from the Estimates and the Public Accounts of Canada.



Name: J. Grant Sinclair
Title: Chairperson

Summary Information

Raison d'être

The Canadian Human Rights Tribunal (the Tribunal) is a quasi-judicial body that hears complaints of discrimination referred by the Canadian Human Rights Commission (the Commission) and determines whether the activities complained of violate the *Canadian Human Rights Act* (CHRA). The purpose of the CHRA is to protect individuals from discrimination and to promote equal opportunity. The Canadian Human Rights Tribunal also decides cases brought under the *Employment Equity Act* (EEA) and, pursuant to section 11 of the CHRA, determines allegations of wage disparity between men and women doing work of equal value in the same establishment.

Total Financial Resources (Millions of Dollars)

Planned Spending	Total Authorities	Actual Spending
4.7	4.7	3.8

Total Human Resources (Full-Time Equivalents)

Planned	Actual	Difference
26	26	-

Departmental Priorities: Program Activity: Public Hearings under the Canadian Human Rights Act

Strategic Outcome: Canadians have equal access to the opportunities that exist in our society through the fair and equitable adjudication of human rights cases that are brought before the Tribunal.				
Alignment to Government of Canada outcomes: inclusive society that promotes linguistic duality and diversity.				
			2005-2006	
Priority No. and Type	Expected Result	Performance Status	Planned Spending	Actual Spending
1. Review existing performance targets.	Measures confirmed or re-established by March 2006 that will appropriately assess timeliness, effectiveness and efficiency of the inquiry process.	met, ongoing	N/A	N/A
2. Reinforce modern comptrollership initiatives.	Assessment and adjustment by March 2006 of performance mechanisms and practices for sound and modern management of resources and effective decision- making.	partially met, ongoing	N/A	N/A
3. Prepare for modernization of human resources management.	Managers and employees are aware of their roles, responsibilities and accountabilities. The Tribunal has a process of integrated human resources and business planning in place for legislative changes relating to human resources management.	new, ongoing	$30,000	Time spent by staff on training, meetings and policy development.
4. Review and revise tools for informing the public of the Tribunal's process.	Canadians have access to the Tribunal and an enhanced awareness of the Tribunal's role and procedures.	partially met, ongoing	$10,000	$16,310
5. Continue to work, as required, with the Department of Justice on possible amendments to the CHRA, in response to the La Forest	More timely access for Canadians to the human rights process. Continue to provide services as CHRA amendments enacted.	ongoing	Dependent upon mandated requirements.	N/A

Report.[1]				
6. Investigate and develop technological enhancements for automating case and information management.	Savings to parties appearing before the Tribunal. Optimize resources to manage case proceedings and implement the government-wide Records, Document and Information Management System (RDIMS) by 2006-2007.	partially met, ongoing	$30,000	$37,079

[1] *Promoting Equality: A New Vision*, published by the *Canadian Human Rights Act* Review Panel under the authority of the Minister of Justice and the Attorney General of Canada, Ottawa, 2000 (available at http://canada.justice.gc.ca/chra/en/).

Departmental Performance

The Tribunal's mission is to better ensure that Canadians have equal access to the opportunities that exist in our society through fair and equitable adjudication of the human rights cases brought before it. Pursuit of that goal requires the Tribunal to determine human rights disputes in a timely, well-reasoned manner that is consistent with the law.

During fiscal year 2005-2006, the Tribunal's workload continued to be extremely heavy due to the record high volume of complaints received from 2003 through 2004. Although the volume of new complaint referrals began to ease in 2005, the combined average of cases received during the three years from 2003 through 2005 represents a 174 percent increase over the Tribunal's previous seven-year average of 44.7 cases per year (see Table 1). In addition, the evidence and issues raised in complaints continue to be increasingly more complex than in the past. These factors have played heavily on the timelines targeted by the Tribunal for conducting inquiries into complaints. Despite these pressures, the Tribunal's performance during the period under review remained very productive, both from the perspective of an efficient inquiry process and from the viewpoint of fair and impartial disposition of complaints.

Table 1. New Cases, 1996 to 2005*

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	Totals
Human Rights Tribunals/ Panels	15	23	22	37	70	83	55	130	139	99	673
Employment Equity Review Tribunals appointed	0	0	0	0	4	4	0	0	0	0	8
Totals	15	23	22	37	74	87	55	130	139	99	681

*Complaints before the Canadian Human Rights Tribunal are referred by the Canadian Human Rights Commission in accordance with the *Canadian Human Rights Act*.

The Tribunal rendered a total of 46 decisions and 85 rulings during the period from 2003 through 2005. In 2005 alone, the Tribunal released 11 decisions and 37 rulings.During the previous fiscal period of 2004-2005, the Tribunal began to re-examine its procedures by adapting an active case management model to the way in which the inquiry process was previously conducted. That model, now referenced in the Tribunal's *What Happens Next?* guide, was implemented during 2005-2006. Our experience to-date suggests that both the parties and the Tribunal benefit greatly from this new approach, with fewer procedural disputes at hearing and greater efficiency in the presentation of evidence and witnesses. Anecdotal evidence further suggests this new approach has engendered savings to both the parties and the Tribunal by streamlining hearings that would otherwise have been much longer.

In cases where the parties are inclined toward resolving complaints without the necessity of a full hearing, the Tribunal continues to offer the services of its experienced members in meeting with the parties for a one-day mediation. As mediations are completely voluntary, the resulting settlements translate into concrete results for all parties concerned, at a reduced cost. In fiscal year 2005-2006, Tribunal members conducted 35 mediations, 23 of which resulted in settlements. In cases where a mediated settlement cannot be reached, or is declined by the parties, the Tribunal's new case management approach has effectively ensured the continuation of the inquiry process without delay, and that the parties are afforded timely access to the Tribunal's adjudicative process.

As mentioned in last year's report, a factor that helped to mitigate the workload risks facing the Tribunal in 2004-2005 was the continuity of its membership. The Tribunal was able to take advantage of case management and scheduling efficiencies initiated in 2003 as a direct result of its Vice-Chairperson being promoted by the Minister to the position of Chairperson in December 2004. The Minister also promoted a similarly experienced, full-time tribunal member to the vacated position of Vice-Chairperson and filled the resulting full-time member vacancy. In 2005-2006, the Minister appointed two new part-time members representing various geographical locations across Canada, further supporting the Tribunal's service of full, fair and timely hearings to Canadians.

Operational Environment

Hearings before the Tribunal have become more adversarial in tone, and the hearing process is more frequently the subject of motions and objections. Although the Tribunal has developed pre-hearing disclosure procedures to ensure a fair and orderly hearing, the efficiency of that process is frequently threatened by missed deadlines, requests for adjournment and issues vehemently contested between the parties. Such situations are often exacerbated in cases where parties are without legal representation. At the end of the day, the only way out of an impasse is for the Tribunal to intervene by holding a case management conference. As a result, hearings on the merits tend to be longer and more complex than in the past. Parties are sometimes uncertain of or untrained in how to focus on the issues that require adjudication by the Tribunal.

While the Commission's experience at both the pre-hearing and the hearing stage is of considerable help to the parties and to the Tribunal, the Commission does not participate at all hearings. In these cases, the Tribunal conducted case management conferences with the parties at strategic points throughout the pre-hearing process, to guide the parties toward a more predictable, streamlined and fair approach to the conduct of cases. Case management conferences allow the Tribunal to better ensure more effective and efficient hearings that are more consistent with the expeditious process contemplated by the CHRA.

Faced with its highest-ever volume of new complaints during the three calendar years of 2003 through 2005, and given the complexities described above, the Tribunal cannot reasonably expect that all cases can be completed within the 12-month target period. However, based on procedural adjustments made in 2003-2004, and given the active case management practices implemented in 2005-2006, the Tribunal remains optimistic of its ability to minimize the impact that those delays might otherwise have had on the 12-month target. And while the Tribunal is always careful when imposing constraints, particularly in terms of time, so as not to exert undue pressure on the parties, it nevertheless sees a more proactive case management approach as one that will benefit parties through a more balanced and efficient use of available resources.

Context

Jurisdiction

The *Canadian Human Rights Act* (CHRA) applies to federal government departments and agencies, Crown corporations, chartered banks, railways, airlines, telecommunications and broadcasting organizations, as well as shipping and interprovincial trucking companies. Complaints may relate to discrimination in employment or in the provision of goods, services, facilities and accommodation that are customarily available to the public. The CHRA prohibits discrimination on the basis of race, national or ethnic origin, colour, religion, age, sex, marital status, family status, sexual orientation, disability or conviction for which a pardon has been granted. Complaints of discrimination based on sex include allegations of wage disparity between men and women doing work of equal value in the same establishment.

In 1996, the Tribunal's responsibilities were expanded to include the adjudication of complaints under the *Employment Equity Act* (EEA), which applies to all federal government departments and federally regulated private sector employers with more than 100 employees. Employment Equity Review Tribunals are created, as needed, from members of the Tribunal. The subject of the inquiry usually relates to the Tribunal's review of a direction given by the Canadian Human Rights Commission to an employer with respect to an employment equity plan. The Tribunal, after hearing evidence and oral argument, may confirm, rescind or amend the Commission's direction. Since the first appointment of such a tribunal in February 2000, only seven more applications have been made. No applications were made in either 2003-2004, 2004-2005 or 2005-2006 (see Table 1). To date, there are no open cases and no hearings have been held, because the parties have reached settlement before a hearing commenced. The EEA was scheduled for parliamentary review in 2005.

Parliament's passage of amendments to the CHRA in 1998 provided for a more highly qualified Tribunal, which we believe is generating a more consistent body of jurisprudence through its decisions and written rulings. In the years since the amendments were passed, we continue to perceive a greater acceptance of the Tribunal's interpretation of the CHRA by the reviewing courts. This development is expanded upon in Section II of this report (see Table 3). Eventually, this acceptance will benefit complainants and respondents and will ultimately result in more timely, fair and equitable disposition of complaints, at a reduced cost to the justice system.

Risk Management Issues

As identified in 2004-2005, the Tribunal continues to face risks in two major areas: workload issues and the increased number of unrepresented parties. The following is a brief synopsis of these risks and what the Tribunal has done to address them.

The number of complaints referred to the Tribunal has risen dramatically since 2002 when only 55 cases were received. In 2003, 130 new complaint cases were referred, and in 2004, that number rose again to 139 cases. In 2005, 99 complaint cases were referred, which is significantly higher than the annual average of 44.7 cases received from 1996 through 2002.

In addition to the higher volume of complaints, the Tribunal is also faced with the challenge of conducting an adjudicative process in which many complainants are unrepresented by legal counsel. While the Commission's involvement and experience in the Tribunal's process is of great assistance to the parties and to the Tribunal, the Commission's limited participation at hearings before the Tribunal means that complainants often conduct their cases and lead evidence by calling witnesses to prove allegations of discrimination with limited legal guidance. Accordingly, tribunal members and staff spend much more time explaining the process and coordinating mediation and hearing activities. In addition, the filing of documents with the Tribunal is often delayed, additional case management attention is needed and the hearings themselves require greater attention to ensure fairness of process is not jeopardized.

The Tribunal has made several changes in response to these circumstances. The practice of mediation was reintroduced in March 2003, after having been discontinued for reasons that are still relevant and that are explained in past reports. The Tribunal also adjusted operating procedures to better meet the needs of unrepresented parties; revised initial correspondence to the parties to ensure better understanding of the information required to process a complaint; and adopted a more active approach to keep the process on track and to ensure parties meet deadlines.

Although procedures continue to be adjusted, such a large increase in workload over the past three years and the challenges of dealing with unrepresented parties continues to place considerable stress on the Tribunal's ability to meet its targeted timeframes for processing complaints. While the delays are not excessive at this time, the Tribunal considers any decline in service to our clients to be unacceptable. The Tribunal is continuing to monitor its workload and procedures closely, and is making adjustments where necessary to ensure that the quality of services provided is not compromised.

SECTION II – ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Analysis of Performance by Program Activity

The Tribunal's two program activities (described below), together with its management and corporate administration activities, achieve the strategic outcomes and results for Canadians as shown in the logic model (Figure 1).

Program Activity: Public Hearings Under the *Canadian Human Rights Act*

Financial Resources (Millions of Dollars)

Planned Spending	Authorities	Actual Spending
4.7	4.7	3.8

Human Resources (Full-Time Equivalents)

Planned	Authorities	Actual
26	26	26

Description

Inquire into complaints of discrimination to decide if particular practices have contravened the CHRA.

Results

Clear and fair interpretation of the *Canadian Human Rights Act*; an adjudication process that is efficient, equitable and fair to all who appear before the Tribunal; and, meaningful legal precedents for the use of employers, service providers and Canadians.

This program activity actions all the priorities identified in Section 1.

Performance Indicators

Client satisfaction
Serving Canadians
Number of cases commenced, pending, completed, withdrawn/discontinued, by time lines
Number of cases heard/decided/settled

Number of judicial reviews (overturned/upheld)

Program Activity: Review Directions Given Under the *Employment Equity Act*

Financial Resources (Millions of Dollars)

Planned Spending	Authorities	Actual Spending
0	0	0

Human Resources (Full-Time Equivalents)

Planned	Authorities	Actual
0	0	0

Description

Conduct hearings into: requests from employers to review decisions issued to them by the Canadian Human Rights Commission (the Commission); or applications from the Commission to confirm directions given to employers.

Results

Clear and fair interpretation of the *Employment Equity Act*; an adjudication process that is efficient, equitable and fair to all who appear before the Tribunal; and, meaningful legal precedents for the use of employers, service providers and Canadians.

No activity occurred for this program activity during the period covered by this performance document.

Figure 1 Logic Model

KEY RESULTS	
1. Timely and well-reasoned determinations of human rights disputes referred by the CHRC under the *Canadian Human Rights Act*, as well as matters heard under the *Employment Equity Act*, that are consistent with both the evidence and the law.	2. Efficient and expedient registry and administrative services that fully and effectively meet the needs of tribunal members in conducting human rights and employment equity inquiries, and the needs of the parties that appear before them.

LONG-TERM OUTCOMES
Canadians have equal access to opportunities through the fair and equitable adjudication of human rights cases that are brought before the Tribunal.

IMMEDIATE & INTERMEDIATE OUTCOMES					
Quality Service	Compliance	Awareness	Fairness	Credibility	Accessibility

OUTPUTS				
Orientation Leadership Training and Sustainability Plans Conferences Member Continuing Education	Liaison Correspondence Panel Selection Case Processing Evidence Gathering Decisions Mediation	Policy and Procedures Advice/Guidance Recommendations Contracts Translation	Information Sharing Reports Communications Computer Systems	Liaison Document Management Record Keeping Work Plans/Budgets Cheques/Invoices Financial Controls Communications Computer Systems

ACTIVITIES				
Awareness/Education Inquiries and Reporting Legal Case Review Liabilities Management	Case Management Case Planning Case Coordination Pre-hearing/ Hearing Deliberation/ Decision-drafting	Contract and Procurement Security Facilities Management Translation Services	Information, Tools, and Communications Information Technology Research and Analysis Systems Development and Support	Reception Human Resources Management Modern Comptrollership Information/Consolidation Allocate/Secure Funds Accounting and Financial Management
Canadian Human Rights Tribunal				

Summary of Results Achieved

The Tribunal has only one program: to conduct hearings and render decisions on those hearings. The following major decisions were rendered in 2005–2006 (and are profiled in greater detail on p. 25):

In its first full decision on section 11 of the *Canadian Human Rights Act* (CHRA) in over 7 years, the Tribunal dealt with allegations that female employees of Canada Post were being paid less for work of equal value than their male co-workers. In deciding the case, tribunal members had to deal with numerous complex issues, including the institutional impartiality of the Tribunal itself, the retrospective application of the Equal Wages Guidelines, and the legal consequences arising from reliability concerns with the evidence. While this decision will be subject to judicial review, it remains an important contribution to the relatively small amount of jurisprudence in the area of section 11.

In a case that attracted considerable media attention and commentary, the Tribunal addressed allegations of racism in connection with the probationary phase of a Royal Canadian Mounted Police recruitment process. The Tribunal had to scrutinize many incidents from several perspectives and determine whether individually, or taken as a group, they revealed discrimination. The challenge was heightened, given that on one hand, discrimination is not likely to be practiced overtly within a police organization yet, on the other hand, it is not the role of the Tribunal to second-guess an employer's assessment of an employee's performance, unless there is evidence that a discriminatory ground was a factor.

The Tribunal also dealt with allegations of gender and age discrimination in the context of a downsizing operation within the Department of Public Works and Government Services Canada. Conducting personnel cuts through reverse order of merit exercises causes considerable stress for all those involved. The Tribunal had to closely assess the evidence to determine whether discrimination played a role in the decisions made by the department. Moreover, the task was made more complicated by the existence of personal animus between the complainant, who was declared surplus, and her supervisor.

Finally, in another case, the Tribunal heard expert sociological evidence regarding the job market experiences of visible minority immigrants to Canada. The Tribunal then had to make findings in regard to this evidence, and apply them to an allegation that an employer's rejection of a visible minority candidate, on the basis of over-qualification, constituted discrimination. The issue of immigrants working in positions for which they are overqualified has been the subject of considerable public discussion and debate in Canada.

Key Activities

To achieve its strategic outcome, the Tribunal must perform the following key activities:

- It must manage the Tribunal's workload;
- It must provide efficient and effective coordination of complaint cases.

Tribunal's Workload

The Tribunal experienced its highest-ever workload during the period from 2003 through 2005. Although the volume of complaint referrals began to ease in 2005, the combined average of cases received during the three years from 2003 through 2005 represents a 174 percent increase over the Tribunal's previous seven-year average of 44.7 cases per year (see Table 1). Also, in addition to the high number of litigants appearing at hearings without expert legal representation, the preliminary and substantive issues requiring rulings or decisions by the Tribunal are becoming increasingly complex, as the nature of human rights in the modern Canadian environment rapidly evolves.

A question often arises as to how closely the adjudication process should be managed and scrutinized by an adjudicating body to ensure an efficient and expeditious process. While much depends on the nature of each

particular case, the dramatic increase in the workload of the Tribunal in recent years has meant that active management of complaint cases before the Tribunal is necessary to avoid delays and the inevitable additional costs. This is particularly important in cases where parties are without legal representation and may be unfamiliar with the adjudication process. Time invested in case management will often engender savings at hearing, where witnesses, evidence and argument on the issues might otherwise become embroiled in debates that are irrelevant to the key points at issue requiring decision by the Tribunal.

Case Coordination

The Tribunal is a very small organization. Maximizing its limited resources is, therefore, paramount into meeting the challenge of the Tribunal's current workload. This requires coordination of both the mediations and hearings before the Tribunal, as well as coordination of the pre-hearing process, which may require hearings to decide preliminary issues, as well as case management conferences, in cases where mediation is either declined or unsuccessful.

The Tribunal's Registry closely monitors the deadlines within which the parties are required to meet their pre-hearing obligations, such as disclosure, identification of witnesses and facts, and submissions on preliminary issues. Although the Tribunal has only one office located in the National Capital Region, its national jurisdiction poses a particular challenge for ensuring efficiency and effectiveness in conducting multi-party conferences and hearings at locations across Canada. To help improve efficiencies, the Tribunal is investigating every possible opportunity to acquire and adopt new technologies, such as electronic format, video-conferencing and electronic messaging.

Performance Accomplishments

1. Review existing performance targets.

Planned activities	Results Achieved
Assess the adequacy of existing targets; analyse case statistics and service levels; monitor the Tribunal's case management initiative; and, where appropriate, develop new measures.	Measures confirmed as adequate, but require further monitoring.

The Tribunal has identified three leading performance measurement targets for ensuring the timely and effective delivery of its hearing process to clients:

- commence hearings within six months of receiving a case referral, in 80 percent of cases;
- render decisions within four months of the close of the hearing, in 95 percent of cases; and,
- conclude cases within 12 months of referral.

These targets were reviewed in 2004-2005 during an exercise to develop a Results-based Management Accountability Framework for the Tribunal. Although the Tribunal's heavy workload since 2003 has stressed the limits of these measures, we believe they remain appropriate for purpose of assessing the Tribunal's performance.

In its last report, the Tribunal noted difficulty achieving these targets due to two main factors: delays requested by the parties; and, the record high number of complaint referrals. The number of complaint referrals received in 2005 has begun to ease slightly from the previous record volumes (see Table 1). Although workload continues to impact the Tribunal's ability to render decisions within its targeted timeframe, delays requested by the parties remain the primary factor affecting the Tribunal's performance with respect to these targets.

- In 2003-2004, of the 28 cases requiring a hearing, only 12 (42.9%) commenced within a six-month timeframe. The greatest delays were incurred during the earliest period of the transition to the Tribunal's new procedures, which were revised in response to the increased workload and changes in the Commission's level of participation in inquiries before the Tribunal. In 2004-2005, only four (26.7%) of the 15 cases began hearings within the six-month timeframe. In 2005-2006, three (33%) of the nine cases requiring a hearing began within six months.

• In 2003-2004, 62 percent of the 16 decisions rendered by the Tribunal were released within four months. Although that target decreased to 54 percent of the 13 decisions released in 2004-2005, only three decisions took longer than six months, and the average time for release of decisions was only marginally above the four-month target. In marked contrast to the two previous fiscal periods, only 27 percent of the 12 decisions rendered in 2005-2006 (excluding the section 11 Canada Post decision noted in the Pay Equity Update later in this report, which took several years at hearing) were within the Tribunal's four-month target. Two additional decisions only marginally surpassed four months.

• As noted in Table 2, the average number of days to complete cases in 2002 was 214. This average was reduced to 187 in 2003, but has risen to 199 and 209 days in 2004 and 2005, respectively. The apparent anomaly of a shorter average to close files, as compared to the longer average to first day of hearing, results from the high number of settlements occurring either through mediation or between the parties on their own. For cases requiring a full hearing and decision, the average time to close a case in 2001 was 384 days, with six cases requiring more than one year to finalize. In 2002, this average was reduced to 272 days, none of which exceeded the one-year timeframe. In 2003, the average was 405 days, with eight cases requiring more than one year to complete. Although that average improved slightly to 396 days in 2004, 11 of the total 18 cases exceeded the one-year timeframe. In 2005, however, the average to close files after hearing and decision rose to 458 days, with half of the cases exceeding the one-year timeframe by a considerable duration.

Table 2. Average Days to Complete Cases, 1996 to 2005, from Date of Referral from the Canadian Human Rights Commission

	1996	1997	1998	1999	2000	2001	2002	2003	2004	*2005
To first day of hearing	234	93	280	73	213	293	257	190	297	246
Time for decision to be submitted from close of hearing	189	75	103	128	164	177	158	126	129	191
Average processing time to close file	266	260	252	272	272	255	214	187	199	209

*As at report date, many complaints referred in 2005 are still at the pre-hearing case management stage or otherwise remain open due to delays from the parties. Figures with respect to complaints referred in 2005 are therefore subject to change.

Although performance targets have not been met during the period under review, we remain confident that the Tribunal's case management model for active involvement of a member during the pre-hearing phase is meeting the needs of the parties while, at the same time, reducing costs. Early case management involvement appears to be helping to avert problems between the parties that might otherwise create a log-jam at the front end of cases or at hearing. In 1994, the Tribunal rendered 16 decisions on the merits of discrimination complaints and issued 24 rulings (with reasons) dealing with procedural, evidentiary, jurisdictional or remedial issues. In 2005, the Tribunal only issued 11 decisions on the merits and 37 rulings. Perhaps the most significant observation to be made is that the ratio of rulings to decisions on the merits has swung more toward the latter form of disposition.

Whether or not this latest trend is wholly or partially attributable to case management is difficult to say. As remarked earlier in this report, complaints brought before the Tribunal have become increasingly more complex. It is noteworthy, however, that the number of hearing days in 2005 decreased dramatically from the steady incline experienced over the preceding five years (see Figure 2). Rather, as many case

management teleconferences between a Tribunal member and the parties occurred in 2005 as were total days spent at hearings.

Figure 2. Number of Hearing Days per Year

Case management as a formal process is a relatively new initiative of the Tribunal, and is expected to result in a more efficient hearing process that will incur savings for both the parties and the Tribunal. As parties become better acquainted with the Tribunal's active case management approach, it is expected that the cases will move more quickly through the system.

2. Reinforce Modern Comptrollership initiatives.

Planned activities	Results Achieved
Implement the Tribunal's Results-based Management Accountability Framework (RMAF) and monitor Modern Comptrollership (MC) sustainability.	The Tribunal has implemented its RMAF, assessed and adjusted performance measurement mechanisms, and is monitoring Modern Comptrollership practices.

The Tribunal completed development of a Results-based Management Accountability Framework (RMAF) in 2004-2005. Measuring performance is crucial to ensure programs, projects and initiatives meet their intended goals and objectives. The RMAF, an approach developed by the Treasury Board of Canada, Secretariat in 2001, provides the Tribunal with a blueprint to plan, measure, evaluate and report on results throughout the life cycle of its program. Future reports on the Tribunal's performance will be guided by the RMAF, which continues to help the Tribunal remain responsive to evolving needs for meeting expected program results.

To ensure continued adherence to Modern Comptrollership principles, the Tribunal has embedded these practices into the culture of the organization and ensures their sustainability through ongoing monitoring.

3. Prepare for Modernization of human resources management.

Planned activities	Results Achieved
Inform staff of changes to their roles, responsibilities and accountabilities; review and	Managers and employees are aware of their roles, responsibilities and accountabilities under the

revise applicable authority delegations; ensure necessary monitoring, reporting and mechanisms for modern human resources management and for human resources and business planning.	new human resources management regime introduced in 2005. The Tribunal has drafted a human resources plan that is integrated with its business planning process.

The new *Public Service Labour Relations Act* (PSLRA) and revisions to the *Financial Administration Act* (FAA) and *Public Service Employment Act* (PSEA) were introduced in 2005. These Acts form the cornerstone of modernized human resources management in the public service. Together with other initiatives, these Acts position both the public service in general and the Tribunal to provide improved programs and services to Canadians.

In 2005-2006, training and activities were completed to ensure that managers and staff of the Tribunal are aware of new roles, responsibilities and accountabilities in human resources management. Both a Labour-Management Consultation Committee and an Informal Conflict Management System are in place, and authority delegations have been reviewed and revised. The Tribunal's human resources policies have also been revised in order to reflect the legislative changes and the modernized approach to leadership, values and ethics.

The Tribunal has adopted the modernized human resources management approach of integrating human resource planning with the business plans of the organization. A human resource plan has been drafted and will be inculcated into the culture of the Tribunal in 2006-2007.

4. Review and revise tools for informing the public of the Tribunal's process.

Planned activities	Results Achieved
Review current information packages.	Canadians have access to the Tribunal and an enhanced awareness of the Tribunal's role and procedures.

Information packages on the role and procedures of the Tribunal are distributed to parties appearing before the Tribunal. New active case management procedures have been incorporated into the Tribunal's information publication *What Happens Next? A Guide to the Tribunal Process*, republished in 2006.

Upgrades have been made to the Tribunal's Internet site to improve access to decisions and rulings, with further improvements planned for 2006-2007. A plan to modernize the Tribunal's procedures for distribution of decisions and rulings to interested clients is also in place for 2006-2007.

5. Continue to work, as required, with the Department of Justice on possible amendments to the *Canadian Human Rights Act*, in response to the La Forest report.

Planned activities	Results Achieved
Develop operational models based on proposed changes to the Tribunal's structure and role in amendments to the CHRA.	The Tribunal continues to await action by the Department of Justice on this initiative and is prepared to move forward if and when requested to do so.

6. Investigate and develop technological enhancements for automating case and information management.

Planned activities	Results Achieved
Develop an automated case management system; investigate improved electronic document filing capabilities; and prepare for implementation of the government-wide Records, Documents and Information Management System (RDIMS).	Automated case management system developed and implemented. Implementation of RDIMS investigated and scheduled for 2006-2007. Investigation of electronic document filing capability ongoing.

In 2004–2005, the Tribunal completed research into automated case management systems and initiated an ambitious project to introduce an affordable automated case management system. The product chosen, called the "Tribunal Toolkit", includes capabilities for enhancing complaint file information storage, evidence tracking, Tribunal member note-taking, electronic document retrieval, statistical data retrieval and compatibility with the federal government's leading RDIMS.

The pilot stage of the Tribunal Tookit's Registry component was completed in 2005-2006, and a plan for retrieval of information for all active cases is scheduled for completion in 2006-2007. A members' component of the Toolkit is also scheduled for completion in 2006-2007. Once completed, a statistical and report compilation component of the Toolkit will be developed.

During 2005-2006, the Tribunal and other federal organizations investigated the availability of an electronic system for management of the Tribunal's administrative records. In consultation with the Department of Public Works and Government Services Canada, the Tribunal initiated a schedule for implementation of the government-wide RDIMS. RDIMS is an enterprise records and document management solution that will enable automated document and information management, including features for document retention, retrieval and reference. This project will be completed in 2006-2007, and will help to ensure the continued integrity of the Tribunal's corporate records.

Courts and administrative agencies are more often developing time-saving and cost-effective systems for filing documents electronically. As lawyers become more familiar with these systems, they are demanding similar services from boards and tribunals. We will continue to explore innovations in this area and will seek advice from other institutions with experience in electronic filing, to avoid the potential costs of adopting technologies not suited to the Tribunal.

The Effect of Recent Tribunal Decisions on Canadians

The mission of the Tribunal is to provide Canadians with a fair and efficient public inquiry process, for the enforcement of the CHRA and EEA.

The Tribunal has a single program – conducting hearings – and its principal goals in carrying out this responsibility are to conduct hearings as expeditiously and fairly as possible, and to render fair and impartial decisions that will withstand the scrutiny of the parties appearing before the Tribunal and the courts that review the Tribunal's decisions. In other words, whatever the result of a particular case, all parties should feel they were treated with respect and fairness.

In 2005–2006, the Tribunal issued 12 decisions with reasons – 11 decisions in 2005 that answered the question, "Did discrimination occur in this case?" Tribunal decisions put an end to disputes between complainants and respondents (subject to rights of judicial review before the Federal Court) as to whether the CHRA was infringed in a particular instance. The decisions also have an impact beyond the parties to the case, bringing real benefits to Canadian society as a whole.

Simply put, Tribunal decisions give concrete and tangible meaning to an abstract set of legal norms. The CHRA prohibits discriminatory practices. It also offers justifications for certain conduct that may be discriminatory, but it does not give examples or illustrations. For that matter, the CHRA does not even define the word "discrimination." It is mainly through Tribunal decisions that Canadians can learn of the extent of their rights and obligations under the legislation. As such, a decision dismissing a complaint is just as noteworthy as a decision that finds a complaint to have been substantiated.

The following are summaries of four decisions rendered by the Tribunal in 2005-2006. They offer a glimpse of the kinds of complaints brought before the Tribunal, as well as some insight into how such cases affect all Canadians. Summaries of other Tribunal decisions rendered in 2005-2006 can be found in the Tribunal's 2005 annual report.

Public Service Alliance of Canada v. Canada Post Corporation 2005 CHRT 39 – Judicial review pending.

The complainant alleged that the respondent had engaged in wage discrimination by paying employees in the female-dominated clerical and regulatory group less than employees in the male-dominated postal operations group. After holding that it was an independent and impartial quasi-judicial body, capable of providing a fair hearing in the case before it, the Tribunal determined that the Equal Wages Guidelines issued in 1986 could apply to the complaint, even though the complaint had been filed in 1983.

The Tribunal went on to uphold the validity of certain provisions of the Guidelines that the respondent had challenged. It noted the presumption in section 11 of the CHRA that any difference in wages paid to female and male employees for work of equal value was on account of sex; it held that this presumption could only be rebutted by relying on a justificatory factor prescribed in the Guidelines. The Tribunal found that the female-dominated complainant group and the male-dominated comparator group had been appropriately defined and designated in the complaint. It also found that, for the purposes of section 11 of the CHRA, the employee groups representing the complainant and the comparator were employed in the same establishment. The job evaluation system chosen was found to be reasonably reliable, as was the evaluation process and job information. The Tribunal accepted evidence indicating that there was a wage gap between the complainant and comparator groups, and endorsed a "level to line" wage adjustment methodology. It found no differences between the groups in regard to non-wage compensation, ordered a 50% discount in the lost wages award to account for reliability problems, and refused to hold the union jointly liable for the discrimination.

Morin v. A.G. (Canada) 2005 CHRT 41

The complainant alleged his colour was a factor in the termination of his employment after unsuccessful field training as a member of the Royal Canadian Mounted Police. He also alleged that he was harassed on the basis of his colour during his training. The respondent argued that he was dismissed because he failed to demonstrate during his probationary period that he possessed the essential qualities required to be a police officer, including the ability to reliably and predictably exercise good judgment in decision-making. The Tribunal noted that it was not in a position to second-guess an employer's assessment of an employee's performance, unless there was evidence that discrimination played a role. Further, it was unable to accept that race played a factor in the complainant's various interactions with his trainers: the complainant's allegation that the nickname given to him had racial overtones was not convincing, and a comparison drawn between the complainant and a black athlete did not reveal racism, nor did a comment about how black men shake hands. The fact the complainant was timed by his trainers in the completion of tasks did not reveal a discriminatory attitude. In addition, comments made about a black officer being dirty, and about employment equity, were not conclusively demonstrative of racism. Moreover, the complainant's attempts to gain similar employment elsewhere, following his discharge from the RCMP, provided independent corroboration of the same shortcomings observed, and relied upon, by the respondent (including a lack of honesty). As for the harassment allegation, the Tribunal only found one comment that could have been perceived as offensive, and this comment was not used persistently or extensively enough to support a finding of harassment. The complaint was dismissed.

Sosnowski v. Public Works and Government Services Canada 2005 CHRT 47

The complainant worked for the respondent as a project manager at Pearson International Airport. When the Airport was privatized, she was declared surplus during a round of downsizing. She alleged that the process used to determine which project managers would be laid off discriminated against her on the basis of sex and age. The downsizing was conducted through a reverse order of merit process, whereby the employees were ranked against each other on the basis of how well they met the business needs of the organization. The Tribunal found that the complainant's placement at the top of the surplus list was justifiable, given: the high operational demand for civil engineers; the complainant's lack of civil engineering experience and training; and her low score in the civil engineering examination administered as part of the reverse order of merit. Moreover, while the complainant herself was a mechanical engineer, her skills were not highly transferable and the respondent would be playing a greatly diminished role in mechanical engineering matters after the Airport's privatization. The Tribunal found no convincing evidence suggesting that the complainant's age or gender had an impact on the respondent's decision to lay her off. The complainant was not on the best of terms with her supervisor, who prepared her performance reviews, and scored the reverse order of merit. This, however, is not proof of discrimination. In addition, the complainant had accepted her performance reviews at the time they were issued to her. The respondent's earlier refusals to give the complainant civil engineering projects could be justified by the availability of civil engineers who were already qualified to work on them. The respondent had no choice but to downsize. The complaint was dismissed.

Sangha v. Mackenzie Valley Land and Water Board 2006 CHRT 9

The complainant, a visible minority immigrant, alleged that the respondent discriminated against him on the grounds of race and national or ethnic origin by refusing to hire him for a regulatory officer position. The evidence showed that while the complainant possessed the basic qualifications, he was in fact overqualified for the job, and for this reason he was not hired. The Tribunal found that when an employer adopts a rule against the hiring of overqualified candidates, such a rule has a discriminatory effect on visible minority immigrant candidates. These predominantly well-educated candidates tend to be excluded from jobs for which they are aptly qualified, and therefore disproportionately seek employment at lower echelons where their qualifications exceed the job requirements. When native-born Canadians are refused jobs for which they are overqualified, they generally have the option of seeking work better suited to their resumes. But

this option is largely foreclosed to immigrants, who have already been excluded from suitable jobs. The Tribunal concluded that the complaint was substantiated. But it also found that even if the complainant had not been screened out as overqualified, he still would not have been hired, as other candidates had more suitable education and experience. The complainant was awarded compensation for pain and suffering, and the respondent was ordered to cease automatically screening out visible minority candidates on the ground of overqualification.

Judicial Review of Tribunal Decisions

The majority of the Tribunal's discrimination decisions in fiscal year 2005-2006 were not the subject of judicial review proceedings. As noted in Section 1, in the years since the amendments to the CHRA were passed (1998), we continue to perceive this as an indicator of a greater acceptance of the Tribunal's interpretation of the CHRA by the reviewing courts.

Table 3. Judicial Review of Tribunal Decisions

	2002	2003	2004	2005	Total
Cases Referred	55	130	139	99	423
Decisions Rendered	12	12	14	11	49
Upheld	2	1	4	0	7
Overturned	2	2	0	0	4
J.R. Withdrawn / Struck for Delay	1	1	0	0	2
J.R. Pending	0	0	3	2	5
TOTAL challenges	5	4	7	2*	18

*One of the challenges is really comprised of two separate judicial review applications in respect of one Tribunal decision. But there are only a total of two decisions being challenged.

Pay Equity Update

In 1999, the Government of Canada announced its intention to conduct a review of section 11 of the CHRA "with a view to ensuring clarity in the way pay equity is implemented in the modern workforce." In 2004, the Pay Equity Task Force published its final report, *Pay Equity: A New Approach to a Fundamental Right* (available at http://www.justice.gc.ca/en/payeqsal/index.html). The Tribunal is awaiting the Government's reaction to this report.

In 2005, hearings continued in one of the Tribunal's two remaining pay equity cases. A final decision in the other remains under reserve:

- ***Canadian Telephone Employees' Association (CTEA) et al. v. Bell Canada*** – The CTEA settled, and then withdrew, its complaint against Bell Canada in October 2002. The complaints of the Communications, Energy and Paperworkers Union of Canada and Femmes-Action are continuing. On June 26, 2003, the Supreme Court dismissed Bell Canada's appeal in regard to the Tribunal's independence and impartiality, allowing hearings to proceed. The Tribunal sat 55 hearing days in 2005, for a total of 292 days since hearings began in this case in 1998.

- ***Public Service Alliance of Canada (PSAC) v. Canada Post*** – This was the Tribunal's longest-running case, lasting more than 10 years and 414 hearing days. Final written submissions were completed in early 2004. Final arguments were heard in spring and early summer 2003. A final decision was released in July 2005.

Four new pay equity cases were referred to the Tribunal under s.11 of the CHRA in 2004 and four more were referred in 2005. Three cases have settled between the parties. Initial case management conferences have been held with the parties in the five remaining cases to establish timelines for disclosure and to set dates for next conferences with a tribunal member. Estimates are not yet available with regard to the expected duration of the hearings on the merits in these cases.

Employment Equity Cases

No applications were made in 2005. To date, there are no cases open and no hearings have been held, given that the parties have reached settlements before hearings commenced. The EEA was scheduled for parliamentary review in 2005.

SECTION III – SUPPLEMENATRY INFORMATION

Organizational Information

Our Organizational Structure

Members

The Canadian Human Rights Tribunal is a small, permanent organization, comprising a full-time Chairperson and Vice-Chairperson and up to 13 full- or part-time members (see Figure 3). Under the statute, both the Chairperson and the Vice-Chairperson must have been members of the bar for more than 10 years.

To be eligible for appointment by the Governor-in-Council (GIC), all members of the Tribunal are required to have expertise in, and sensitivity to, human rights issues. In addition, members attend regular meetings for training and briefing sessions on such topics as decision-writing techniques, evidence and procedure, and in-depth analysis of human rights issues. Throughout their three- or five-year terms, all tribunal members are given opportunities for professional development. The level of expertise and skill of members is undoubtedly at the highest level it has been since the creation of the Tribunal in 1978.

Registry Operations

Administrative responsibility for the Tribunal rests with the Registry. It plans and arranges hearings, acts as liaison between the parties and tribunal members, and provides administrative support. The Registry is also accountable for the operating resources allocated to the Tribunal by Parliament.

Corporate, Financial, Legal and Information Technology Services

Tribunal and Registry operations are supported by Corporate Services, Financial Services, Legal Services and Information Technology (IT) Services.

Corporate Services provides support to the Tribunal in facilities management, communications, material management, procurement of goods and services, information management, security, reception and courier services. It also assists the Registrar's Office in the development and implementation of government-wide initiatives, such as the Service Improvement Initiative and Modern Comptrollership.

Financial Services provides the Tribunal with accounting services, financial information and advice.

Legal Services provides the Tribunal with legal information, advice and representation.

The main priority of IT Services is to ensure that the Tribunal has the technology required to perform efficiently and effectively. The section advises Registry staff and members on the use of corporate systems and technology available internally and externally, and offers training. It also provides procurement and support services for all computer hardware, software and information technology services. IT Services is also involved in implementing government initiatives, such as Government On-Line and represents the Tribunal on the Electronic Filing Project Advisory Committee, a committee that includes government agencies involved in either court or administrative law activities.

Human resources services are contracted out to the Department of Public Works and Government Services Canada.

Figure 3. The Tribunal's Organizational Chart

Table 4. Comparison of Planned to Actual Spending (including Full-Time Equivalents)

			2005-2006			
($ millions)	2003-2004 Actual	2004–2005 Actual	Main Estimates	Planned Spending	Total Authorities	Total Actuals
Public hearings under *Canadian Human Rights Act*	4.3	4.2	4.7	4.7	4.7	3.8
Total	4.3	4.2	4.7	4.7	4.7	3.8
Less: Non-Respendable revenue						

Plus: Cost of services received without charge	0.7	1.1	1.2	1.2	1.2	1.2
Total Departmental Spending	5.0	5.3	5.9	5.9	5.9	5.0
Full Time Equivalents	26	26				26

Table 5. Resources by Program Activity (Millions of Dollars)

2005–2006								
	Budgetary						Plus: Non-Budgetary	Total
Program Activity – PA	Operating	Capital	Grants and Contributions	Total: Gross Budgetary Expenditures	Less: Respendable Revenue	Total: Net Budgetary Expenditures	Loans, Investments and Advances	
Public hearings under *Canadian Human Rights Act*								
Main Estimates	4.7			4.7		4.7		4.7
Planned Spending	4.7			4.7		4.7		4.7
Total Authorities	4.7			4.7		4.7		4.7
Actual Spending	3.8			3.8		3.8		3.8

Table 6. Voted and Statutory Items (Millions of Dollars)

		2005-2006			
Vote or Statutory Item	Truncated Vote or Statutory Wording	Main Estimates	Planned Spending	Total Authorities	Total Actuals
15	Program expenditures	4.3	4.3	4.3	3.4
(S)	Contributions to employee benefit plans	0.4	0.4	0.4	0.4
	Total	4.7	4.7	4.7	3.8

Table 7. Services Received Without Charge

($ millions)	2005–2006
Accommodation provided by Public Works and Government Services Canada	1.0
Contributions covering employers' share of employees' insurance premiums and expenditures paid by Treasury Board of Canada Secretariat (excluding revolving funds). Employer's contribution to employees' insured benefits plans and associated expenditures paid by TBS	0.2
Worker's compensation coverage provided by Social Development Canada	0
Salary and associated expenditures of legal services provided by the Department of Justice Canada	0
Total 2005–2006 Services received without charge	1.2

Financial Statements

Financial Statements are prepared in accordance with accrual accounting principles. The unaudited supplementary information presented in the financialtables in the Departmental Performance Report (DPR) is prepared on a modified cash basis of accounting in order to be consistent with appropriations-based reporting. Note 3 of the financial statements reconciles these two accounting methods.

Canadian Human Rights Tribunal

Statement of Management Responsibility

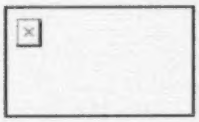
Responsibility for the integrity and objectivity of the accompanying financial statements for the year ended March 31, 2006 and all information contained in these statements rests with departmental management. These financial statements have been prepared by management in accordance with Treasury Board of Canada accounting policies which are consistent with generally accepted Canadian accounting principles for the public sector.

Management is responsible for the integrity and objectivity of the information in these financial statements. Some of the information in the financial statements is based on management's best estimates and judgment, and gives due consideration to materiality. To fulfil its accounting and reporting responsibilities, management maintains a set of accounts that provides a centralized record of the department's financial transactions. Financial information submitted to the Public Accounts of Canada and included in the department's DPR is consistent with these financial statements.

Management maintains a system of financial management and internal control designed to provide reasonable assurance that: financial information is reliable;
assets are safeguarded; and transactions, in accordance with the *Financial Administration Act*, are executed in accordance with prescribed regulations, within parliamentary authorities, and are properly recorded to maintain accountability of Government funds.

Management also seeks to ensure the objectivity and integrity of data in its financial statements by careful selection, training and development of qualified staff,
by organizational arrangements that provide appropriate divisions of responsibility, and by communication programs aimed at ensuring that regulations, policies, standards and managerial authorities are understood throughout the department.

The financial statements of the department have not been audited.



J. Grant Sinclair
Chairperson
Ottawa, Canada

Gregory M. Smith
Registrar
June 16, 2006

Canadian Human Rights Tribunal
Statement of Operations (unaudited)
for the year ended March 31

	2006	2005
	Hearings Under *Canadian Human Rights Act*	
Expenses		
Operating Expenses:		
Salaries and employee benefits	2,616,790	2,365,925
Rentals	1,120,483	1,177,784
Professional Services	829,918	1,082,808
Transportation and Telecommunications	268,546	362,852
Materials and Supplies	85,731	84,660
Amortization	38,413	73,466
Repair and Maintenance	36,576	131,083
Communications	15,250	5,247
Miscellaneous	7,701	10,360
Total Expenses	5,019,408	5,294,185
Revenues		
Other revenue	230	66
Total Revenues	230	66
Net Cost of Operations	5,019,178	5,294,119

The accompanying notes form an integral part of these financial statements.

Canadian Human Rights Tribunal
Statement of Financial Position (unaudited)
at March 31

	2006	2005
ASSETS		
Financial assets		
Receivables from other Federal Government departments and agencies	19,342	127,877
Receivables from external parties	964	6,775
Employee Advances	500	500
Total financial assets	20,806	135,152
Non-financial assets		
Prepaid expenses	14,000	14,000
Tangible capital assets (Note 4)	142,062	103,943
Total non-financial assets	156,062	117,943
TOTAL	176,868	253,095
LIABILITIES		
Accounts payable to other Federal Government departments and agencies	61,725	178,752
Other accounts payable and accrued liabilities	210,722	297,612
Vacation pay and compensatory leave	95,633	79,054
Employee severance benefits (Note 5b)	431,825	353,940
TOTAL	799,905	909,358
Equity of Canada	(623,037)	(656,263)
TOTAL	176,868	253,095

Contractual Obligations (Note 6)

The accompanying notes form an integral part of these financial statements.

Canadian Human Rights Tribunal
Statement of Equity of Canada (unaudited)
for the year ended March 31

	2006	2005
Equity of Canada, beginning of year	(656,263)	(715,233)
Net cost of operations	(5,019,178)	(5,294,119)
Current year appropriations used (Note 3)	3,804,022	4,195,746
Revenue not available for spending	(125)	(16)
Refund of previous year expenses	(6,305)	(3,700)
Change in net position in the Consolidated Revenue Fund (Note 3)	89,466	21,059
Services received without charge from *other* government departments and agencies (Note 7)	1,165,346	1,140,000
Equity of Canada, end of year	(623,037)	(656,263)

The accompanying notes form an integral part of these financial statements.

Canadian Human Rights Tribunal
Statement of Cash flow (unaudited)
for the year ended March 31

	2006	2005
Operating activities		
Net cost of operations	5,019,178	5,294,119
Non-cash items:		
Amortization of capital assets	(38,413)	(73,466)
Services provided without charge by other government departments	(1,165,346)	(1,140,000)
Variations in Statement of Financial Position:		
Increase (decrease) in accounts receivables and advances	(114,346)	122,059
Increase (decrease) in liabilities	109,453	(45,106)
Cash used by operating activities	3,810,526	4,157,606
Capital investment activities		
Acquisitions of tangible capital assets	76,532	55,483
Financing Activities		
Net cash provided by Government of Canada	(3,887,058)	(4,213,089)

The accompanying notes and schedules form an integral part of these Statements

Canadian Human Rights Tribunal
Notes to the Financial Statements (unaudited)

1. Authority and Objectives

The Canadian Human Rights Tribunal (the Tribunal) is a quasi-judicial body created by Parliament to inquire into complaints of discrimination and to decide if particular practices have contravened *the Canadian Human Rights Act*. The Tribunal may only inquire into complaints referred to it by the Canadian Human Rights Commission, usually after a full investigation by the Commission. The Commission resolves most cases without the Tribunal's intervention. Cases referred to the Tribunal generally involve complicated legal issues, new human rights issues, unexplored areas of discrimination, or multifaceted evidentiary complaints that must be heard under oath.

The Tribunal's mandate also includes hearing matters under the *Employment Equity Act* (EEA).

2. Summary of Significant Accounting Policies

These financial statements have been prepared in accordance with Treasury Board of Canada accounting policies which are consistent with generally accepted Canadian accounting principles for the public sector.

Significant accounting policies are as follows:

a) Parliamentary appropriations – The Tribunal is primarily financed by the Government of Canada through parliamentary appropriations. Appropriations provided to the Canadian Human Rights Tribunal do not parallel financial reporting according to generally accepted accounting principles since they are primarily based on cash flow requirements. Consequently, items recognized in the statement of operations and the statement of financial position are not necessarily the same as those provided through appropriations from Parliament. Note 3 provides a high level reconciliation between the bases of reporting.

b) Net Cash Provided by Government – The Tribunal operates within the Consolidated Revenue Fund (CRF), which is administered by the Receiver General for Canada. All cash received by the Tribunal is deposited to the CRF and all cash disbursements made by the Tribunal are paid from the CRF.

The net cash provided by Government is the difference between all cash receipts and all cash disbursements including transactions between departments of the federal government.

c) Change in net position in the Consolidated Revenue Fund is the difference between the net cash provided by Government and appropriations used in a year, excluding the amount of non respendable revenue recorded by the department.

It results from timing differences between when a transaction affects appropriations and when it is processed through the CRF.

d) Revenues – These are accounted for in the period in which the underlying transaction or event occurred that gave rise to the revenues.

e) Expenses – Expenses are recorded on the accrual basis:

- Vacation pay and compensatory leave are expensed as the benefits accrue to employees under their respective terms of employment.
- Services provided without charge by other government departments for accommodation, the employer's contribution to the health and dental insurance plans and legal services are recorded as operating expenses at their estimated cost.

f) Employee future benefits

i. Pension benefits: Eligible employees participate in the Public Service Pension Plan, a multiemployer plan administered by the Government of Canada. The Tribunal's contributions to the Plan are charged to expenses in the year incurred and represent the total departmental obligation to the Plan. Current legislation does not require the department to make contributions for any actuarial deficiencies of the Plan.

ii. Severance benefits: Employees are entitled to severance benefits under labour contracts or conditions of employment. These benefits are accrued as employees render the services necessary to earn them. The obligation relating to the benefits earned by employees is calculated using information derived from the results of the actuarially determined liability for employee severance benefits for the Government as a whole.

g) Accounts receivable and advances are stated at amounts expected to be ultimately realized; a provision is made for receivables where recovery is considered uncertain.

h) Tangible capital assets – All tangible capital assets and leasehold improvements having an initial cost of $5,000 or more are recorded at their acquisition cost. Amortization of tangible capital assets is done on a straight-line basis over the estimated useful life of the asset as follows:

Asset Class	Amortization period
Machinery and equipment	5 to 10 years
Furniture and fixtures	10 years
Informatics Hardware & Software	3 years

i) Measurement uncertainty – The preparation of these financial statements in accordance with Treasury Board of Canada accounting policies which are consistent with generally accepted Canadian accounting principles for the public sector requires management to make estimates and assumptions that

affect the reported amounts of assets, liabilities, revenues and expenses reported in the financial statements. At the time of preparation of these statements, management believes the estimates and assumptions to be reasonable. The most significant items where estimates are used are the liability for employee severance benefits and the useful life of tangible capital assets. Actual results could significantly differ from those estimated. Management's estimates are reviewed periodically and, as adjustments become necessary, they are recorded in the financial statements in the year they become known.

3. Parliamentary Appropriations

The Tribunal receives most of its funding through annual parliamentary appropriations. Items recognized in the statement of operations and the statement of financial position in one year may be funded through Parliamentary appropriations in prior, current or future years. Accordingly, the Tribunal has different net results of operations for the year on a government funding basis than on an accrual accounting basis. The differences are reconciled in the following tables:

a) Reconciliation of net cost of operations to current year appropriations used

		2006	2005
Net cost of operations		5,019,178	5,294,119
Adjustments for items affecting net cost of operations but not affecting appropriations			
Less:	Services provided without charge	(1,165,346)	(1,140,000)
	Amortization of tangible capital assets	(38,413)	(73,466)
	Vacation pay and compensatory leave	(16,579)	32,150
	Employee severance benefits	(77,885)	24,548
	Prepaid expenses	(14,000)	(14,000)
	Justice Legal Services	0	(854)
Add:	Other revenue	230	66
	Refund of previous year expenses	6,305	3,700
Adjustments for items not affecting net cost of operations but affecting appropriations			
Add:	Acquisitions of tangible capital assets	76,532	55,483
	Prepaid expenses	14,000	14,000
Current year appropriations used		3,804,022	4,195,746

b) Appropriations provided and used

	Appropriations Provided	
	2006	2005
Vote 15 – Program expenditures	4,324,000	4,714,915
Statutory Amounts	374,105	343,116
Less:		
Lapsed appropriations: Operating	(894,083)	(862,285)
Current year appropriations used	3,804,022	4,195,746

c) Reconciliation of net cash provided by Government to current year appropriations used

	2006	2005
Net cash provided by Government	3,887,058	4,213,089
Revenue not available for spending	125	16
Refund of previous year expenses	6,305	3,700
Change in net position of the Consolidated Revenue Fund		
Variation in accounts receivable and advances	114,346	(122,059)
Variation in accounts payable and accrued liabilities	(203,917)	101,805
Other adjustments	105	(805)
	(89,466)	(21,059)
Current year appropriations used	3,804,022	4,195,746

4. Tangible Capital Assets

5. Employee Benefits

a) Pension benefits: Employees of Tribunal participate in the Public Service Pension Plan, which is sponsored and administered by the Government of Canada. Pension benefits accrue up to a maximum period of 35 years at a rate of 2 percent per year of pensionable service, times the average of the best five consecutive years of earnings. The benefits are integrated with Canada/Québec Pension Plans benefits and they are indexed to inflation.

Both the employees and the department contribute to the cost of the Plan. The 2005-2006 expense amounts to **$267,979 ($251,467 in 2004-2005)**, which represents approximately 2.6 time the contributions by employees.

The department's responsibility with regard to the Plan is limited to its contributions. Actuarial surpluses or deficiencies are recognized in the financial statements of the Government of Canada, as the Plan's sponsor.

b) Severance benefits: The Tribunal provides severance benefits to its employees based on eligibility, years of service and final salary. These severance benefits are not pre-funded. Benefits will be paid from future appropriations. Information about the severance benefits, measured as at March 31, is as follows:

	2006	2005

Accrued benefit obligation, beginning of year	353,940	378,488
Expense for the year	111,327	31,692
Benefits paid during the year	(33,442)	(56,240)
Accrued benefit obligation, end of year	431,825	353,940

6. Contractual Obligations

The nature of the Tribunal activities can result in some large multi-year contracts and obligations whereby the department will be obligated to make future payments when the services/goods are received. Significant contractual obligations that can be reasonably estimated are summarized as follows:

	2007	2008 and thereafter	Total
Goods and services	974,109	245,934	1,220,043

7. Related party transactions

The Tribunal is related as a result of common ownership to all Government of Canada departments, agencies, and Crown corporations. The Tribunal enters into transactions with these entities in the normal course of business and on normal trade terms. Also, during the year, the Tribunal received services obtained without charge from other Government departments as presented in part (a).

a) Services provided without charge:

During the year the Tribunal received without charge from other departments, accommodation, and the employer's contribution to the health and dental insurance plans. These services without charge have been recognized in the Canadian Human Rights Tribunal Statement of Operations as follows:

	2006	2005
Accommodation	1,005,332	986,000
Employer's contribution to the health and dental insurance plans	160,014	154,000
Total	1,165,346	1,140,000

The Government has structured some of its administrative activities for efficiency and cost-effectiveness purposes so that one department performs these on behalf of all without charge. The costs of these services, which include payroll and cheque issuance services provided by the Department of Public Works and Government Services Canada are not included as an expense in the Canadian Human Rights Tribunal's Statement of Operations.

Response to Parliamentary Committees and Audits and Evaluations for Fiscal Year 2005–2006

Response to Parliamentary Committees

No recommendations were received.

Response to the Auditor General including to the Commissioner of the Environment and Sustainable Development (CESD)

No recommendations were received.

External Audits or Evaluations

No external audits or evaluations were conducted.

Internal Audits or Evaluations

No internal audits or evaluations were conducted.

Travel Policies

Comparison to the TBS Special Travel Authorities

The Canadian Human Rights Tribunal follows the TBS Special Travel Authorities.

Comparison to the TBS Travel Directive, Rates and Allowances

The Canadian Human Rights Tribunal follows the TBS Travel Directive, Rates and Allowances.

SECTION IV – OTHER ITEMS OF INTEREST

Contact Information

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Legislation and Associated Regulations Administered

The appropriate Minister is responsible to Parliament for the following *Acts*:

Canadian Human Rights Act (R.S. 1985, CH–6, amended)

Employment Equity Act (S.C. 1995, C.44, given assent on December 15, 1995)

Statutory Annual Reports and Other Departmental Reports

The following documents can be found on the Tribunal's Web site:

Annual Report (1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005)

Report on Plans and Priorities (2005–2006 Estimates)

Rules of Procedure